

# SENATE BILL 101

M1, P3, D1

2lr0694

---

By: **Senator Colburn**

Introduced and read first time: January 17, 2012

Assigned to: Education, Health, and Environmental Affairs

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Department of Natural Resources – Tracking Device on Vessel – Prohibition**  
3 **Without Court Order**

4 FOR the purpose of prohibiting the Secretary of Natural Resources or a Natural  
5 Resources police officer from placing or installing a tracking device on a vessel  
6 without first obtaining a certain court order; authorizing the Secretary or a  
7 Natural Resources police officer to apply for a certain court order in a certain  
8 manner; requiring a court to enter a certain order under certain circumstances;  
9 authorizing extensions of a certain order under certain circumstances; requiring  
10 certain persons to furnish certain assistance to a Natural Resources police  
11 officer under certain circumstances; providing for the construction of this Act;  
12 establishing a complete defense against certain civil or criminal actions;  
13 requiring certain reports relating to certain court orders; defining a certain  
14 term; and generally relating to the placement or installation of tracking devices  
15 on vessels.

16 BY repealing and reenacting, without amendments,  
17 Article – Natural Resources  
18 Section 1–204  
19 Annotated Code of Maryland  
20 (2005 Replacement Volume and 2011 Supplement)

21 BY adding to  
22 Article – Natural Resources  
23 Section 1–204.1  
24 Annotated Code of Maryland  
25 (2005 Replacement Volume and 2011 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Natural Resources**

2 1–204.

3 (a) In addition to any other powers conferred by this title, the Secretary and  
4 every Natural Resources police officer shall have all the powers conferred upon police  
5 officers of the State. These powers may be exercised anywhere within the State. The  
6 Natural Resources Police Force specifically is charged with enforcing the natural  
7 resource and conservation laws of the State.

8 (b) Every Natural Resources police officer appointed under § 1–203 of this  
9 subtitle shall perform duties the Secretary designates.

10 (c) Any law enforcement employee of the Department of Natural Resources  
11 who works overtime for any reason, whether or not the employee receives monetary  
12 payment for that overtime work, shall be considered to be employed by this State  
13 during those hours for purposes of all other employee entitlements.

14 **1–204.1.**

15 **(A) IN THIS SECTION, “TRACKING DEVICE” MEANS AN ELECTRONIC OR**  
16 **MECHANICAL DEVICE THAT, WHEN PLACED OR INSTALLED ON A VESSEL,**  
17 **ALLOWS ONE OR MORE INDIVIDUALS TO REMOTELY DETERMINE OR TRACK THE**  
18 **LOCATION AND MOVEMENT OF THE VESSEL ON WHICH THE DEVICE IS PLACED**  
19 **OR INSTALLED.**

20 **(B) THE SECRETARY OR A NATURAL RESOURCES POLICE OFFICER MAY**  
21 **NOT PLACE OR INSTALL A TRACKING DEVICE ON A VESSEL WITHOUT FIRST**  
22 **OBTAINING A COURT ORDER UNDER SUBSECTION (D) OF THIS SECTION.**

23 **(C) (1) THE SECRETARY OR A NATURAL RESOURCES POLICE**  
24 **OFFICER MAY APPLY TO A COURT OF ANY COUNTY FOR AN ORDER OR AN**  
25 **EXTENSION OF AN ORDER UNDER SUBSECTION (D) OF THIS SECTION**  
26 **AUTHORIZING THE PLACEMENT OR INSTALLATION OF A TRACKING DEVICE ON A**  
27 **VESSEL.**

28 **(2) AN APPLICATION UNDER PARAGRAPH (1) OF THIS**  
29 **SUBSECTION SHALL BE IN WRITING AND SIGNED AND SWORN TO BY THE**  
30 **APPLICANT AND SHALL INCLUDE:**

31 **(I) A PARTICULAR DESCRIPTION OF THE VESSEL ON WHICH**  
32 **THE TRACKING DEVICE WILL BE PLACED OR INSTALLED; AND**

1                   **(II) A STATEMENT BY THE APPLICANT THAT THE**  
2 **INFORMATION LIKELY TO BE OBTAINED IS RELEVANT TO AN ONGOING CRIMINAL**  
3 **INVESTIGATION.**

4           **(D) (1) ON AN APPLICATION MADE UNDER SUBSECTION (C) OF THIS**  
5 **SECTION, A COURT SHALL ISSUE AN EX PARTE ORDER AUTHORIZING THE**  
6 **PLACEMENT OR INSTALLATION OF A TRACKING DEVICE ON A VESSEL WITHIN**  
7 **THE JURISDICTION OF THE COURT IF THE COURT FINDS THAT THE**  
8 **INFORMATION LIKELY TO BE OBTAINED BY THE PLACEMENT OR INSTALLATION**  
9 **OF THE TRACKING DEVICE IS RELEVANT TO AN ONGOING CRIMINAL**  
10 **INVESTIGATION.**

11                   **(2) AN ORDER ISSUED UNDER THIS SECTION SHALL:**

12                   **(I) SPECIFY THE IDENTITY, IF KNOWN, OF THE OWNER OF**  
13 **THE VESSEL ON WHICH THE TRACKING DEVICE WILL BE PLACED OR INSTALLED;**

14                   **(II) SPECIFY THE IDENTITY, IF KNOWN, OF THE PERSON**  
15 **WHO IS THE SUBJECT OF THE CRIMINAL INVESTIGATION;**

16                   **(III) SPECIFY THE GEOGRAPHIC LIMITS OF THE TRACKING**  
17 **DEVICE;**

18                   **(IV) CONTAIN A DESCRIPTION OF THE OFFENSE TO WHICH**  
19 **THE INFORMATION LIKELY TO BE OBTAINED BY THE TRACKING DEVICE**  
20 **RELATES; AND**

21                   **(V) DIRECT, ON THE REQUEST OF THE APPLICANT, THE**  
22 **FURNISHING OF INFORMATION AND TECHNICAL ASSISTANCE NECESSARY TO**  
23 **ACCOMPLISH THE PLACEMENT OR INSTALLATION OF THE TRACKING DEVICE**  
24 **UNDER SUBSECTION (E) OF THIS SECTION.**

25                   **(3) (I) AN ORDER ISSUED UNDER THIS SECTION SHALL**  
26 **AUTHORIZE THE PLACEMENT OR INSTALLATION OF A TRACKING DEVICE FOR A**  
27 **PERIOD NOT TO EXCEED 60 DAYS.**

28                   **(II) EXTENSIONS OF AN ORDER ISSUED UNDER THIS**  
29 **SECTION MAY BE GRANTED ON A NEW APPLICATION FOR AN ORDER UNDER**  
30 **SUBSECTION (C) OF THIS SECTION AND ON THE JUDICIAL FINDING REQUIRED**  
31 **UNDER SUBSECTION (D)(1) OF THIS SECTION.**

32                   **(III) AN EXTENSION MAY NOT EXCEED 60 DAYS.**

1           **(4) AN ORDER AUTHORIZING THE PLACEMENT OR INSTALLATION**  
2 **OF A TRACKING DEVICE SHALL DIRECT THAT:**

3           **(I) THE ORDER BE SEALED UNTIL FURTHER ORDER OF THE**  
4 **COURT; AND**

5           **(II) A PERSON OWNING THE VESSEL TO WHICH THE**  
6 **TRACKING DEVICE IS ATTACHED, OR WHO IS OBLIGATED BY THE ORDER TO**  
7 **PROVIDE ASSISTANCE TO THE APPLICANT, NOT DISCLOSE THE EXISTENCE OF**  
8 **THE TRACKING DEVICE OR THE EXISTENCE OF THE INVESTIGATION TO ANY**  
9 **PERSON, UNLESS OR UNTIL OTHERWISE ORDERED BY THE COURT.**

10          **(E) (1) ON THE REQUEST OF A NATURAL RESOURCES POLICE**  
11 **OFFICER AUTHORIZED TO PLACE OR INSTALL A TRACKING DEVICE ON A VESSEL**  
12 **UNDER THIS SECTION, A VESSEL OWNER, OR OTHER PERSON, SHALL FURNISH**  
13 **ALL INFORMATION, FACILITIES, AND TECHNICAL ASSISTANCE NECESSARY TO**  
14 **ACCOMPLISH THE PLACEMENT OR INSTALLATION OF THE TRACKING DEVICE**  
15 **UNOBTRUSIVELY AND WITH MINIMUM INTERFERENCE WITH SERVICES, IF SUCH**  
16 **ASSISTANCE IS DIRECTED BY A COURT ORDER UNDER SUBSECTION (D)(2)(V) OF**  
17 **THIS SECTION.**

18          **(2) (I) ON THE REQUEST OF A NATURAL RESOURCES POLICE**  
19 **OFFICER AUTHORIZED TO RECEIVE THE RESULTS OF A TRACKING DEVICE**  
20 **UNDER THIS SECTION, A VESSEL OWNER, OR OTHER PERSON, SHALL:**

21                   **1. PLACE OR INSTALL THE DEVICE IN THE**  
22 **APPROPRIATE LOCATION, UNOBTRUSIVELY AND WITH MINIMUM INTERFERENCE**  
23 **WITH SERVICES; AND**

24                   **2. FURNISH ALL ADDITIONAL INFORMATION,**  
25 **FACILITIES, AND TECHNICAL ASSISTANCE NECESSARY, IF THE PLACEMENT OR**  
26 **INSTALLATION AND ASSISTANCE IS DIRECTED BY A COURT ORDER UNDER**  
27 **SUBSECTION (D)(2)(V) OF THIS SECTION.**

28           **(II) UNLESS OTHERWISE ORDERED BY THE COURT, THE**  
29 **RESULTS OF THE TRACKING DEVICE SHALL BE FURNISHED TO THE POLICE**  
30 **OFFICER DESIGNATED IN THE COURT ORDER AT REASONABLE INTERVALS**  
31 **DURING REGULAR BUSINESS HOURS FOR THE DURATION OF THE ORDER.**

32          **(3) A VESSEL OWNER OR ANY OTHER PERSON WHO FURNISHES**  
33 **FACILITIES OR TECHNICAL ASSISTANCE UNDER THIS SECTION SHALL BE**  
34 **COMPENSATED FOR REASONABLE EXPENSES INCURRED IN PROVIDING THE**  
35 **FACILITIES AND ASSISTANCE.**

1           (4)    **NOTHING IN THIS SECTION MAY BE CONSTRUED AS CREATING**  
2 **A CAUSE OF ACTION AGAINST ANY PERSON FOR PROVIDING INFORMATION,**  
3 **FACILITIES, OR ASSISTANCE IN ACCORDANCE WITH THE TERMS OF A COURT**  
4 **ORDER UNDER THIS SECTION.**

5           (5)    **A GOOD FAITH RELIANCE ON A COURT ORDER, A LEGISLATIVE**  
6 **AUTHORIZATION, OR A STATUTORY AUTHORIZATION IS A COMPLETE DEFENSE**  
7 **AGAINST ANY CIVIL OR CRIMINAL ACTION BROUGHT UNDER THIS SECTION OR**  
8 **UNDER ANY OTHER LAW.**

9           (F)    (1)   **WITHIN 30 DAYS AFTER THE EXPIRATION OF THE TOTAL**  
10 **PERIOD OF AN ORDER, INCLUDING EACH EXTENSION ENTERED UNDER**  
11 **SUBSECTION (D) OF THIS SECTION, OR WITHIN 30 DAYS AFTER DENIAL OF AN**  
12 **APPLICATION FOR AN ORDER OR EXTENSION, THE JUDGE WHO ISSUED THE**  
13 **ORDER OR DENIED THE APPLICATION SHALL REPORT TO THE ADMINISTRATIVE**  
14 **OFFICE OF THE COURTS:**

15                   (I)   **THE FACT THAT AN ORDER OR EXTENSION**  
16 **AUTHORIZING THE PLACEMENT OR INSTALLATION OF A TRACKING DEVICE ON A**  
17 **VESSEL WAS APPLIED FOR;**

18                   (II)   **THE FACT THAT THE ORDER OR EXTENSION WAS ISSUED**  
19 **OR GRANTED AS APPLIED FOR, WAS MODIFIED, OR WAS DENIED;**

20                   (III)   **THE PERIOD OF PLACEMENT OR INSTALLATION OF A**  
21 **TRACKING DEVICE AUTHORIZED BY THE ORDER AND THE NUMBER AND**  
22 **DURATION OF ANY EXTENSIONS OF THE ORDER;**

23                   (IV)   **THE IDENTITY OF THE PERSON MAKING THE**  
24 **APPLICATION AND THE PERSON AUTHORIZING THE APPLICATION;**

25                   (V)    **THE OFFENSE SPECIFIED IN THE ORDER OR**  
26 **APPLICATION OR EXTENSION OF AN ORDER;**

27                   (VI)   **THE GEOGRAPHIC LIMITS OF THE TRACKING DEVICE;**  
28 **AND**

29                   (VII)   **THE DESCRIPTION OF THE VESSEL ON WHICH THE**  
30 **TRACKING DEVICE WAS PLACED OR INSTALLED.**

31           (2)    **IN JANUARY OF EACH YEAR, THE SECRETARY SHALL REPORT**  
32 **TO THE ADMINISTRATIVE OFFICE OF THE COURTS:**

1           **(I) THE INFORMATION REQUIRED BY PARAGRAPH (1) OF**  
2 **THIS SUBSECTION WITH RESPECT TO EACH APPLICATION FOR AN ORDER OR**  
3 **EXTENSION MADE DURING THE PRECEDING CALENDAR YEAR;**

4           **(II) A GENERAL DESCRIPTION OF INFORMATION OBTAINED**  
5 **FROM THE TRACKING DEVICE PLACED OR INSTALLED ON THE VESSEL UNDER**  
6 **THE ORDER OR EXTENSION, INCLUDING THE APPROXIMATE NATURE AND**  
7 **FREQUENCY OF INCRIMINATING INFORMATION OBTAINED, THE APPROXIMATE**  
8 **NATURE AND FREQUENCY OF OTHER INFORMATION OBTAINED, AND THE**  
9 **APPROXIMATE NATURE, AMOUNT, AND COST OF THE MANPOWER AND OTHER**  
10 **RESOURCES USED IN OBTAINING INFORMATION FROM THE TRACKING DEVICE;**

11           **(III) THE NUMBER OF ARRESTS RESULTING FROM**  
12 **INFORMATION OBTAINED UNDER THE ORDER OR EXTENSION AND THE**  
13 **OFFENSES FOR WHICH ARRESTS WERE MADE;**

14           **(IV) THE NUMBER OF TRIALS RESULTING FROM THE**  
15 **INFORMATION OBTAINED FROM THE TRACKING DEVICE;**

16           **(V) THE NUMBER OF MOTIONS TO SUPPRESS MADE WITH**  
17 **RESPECT TO THE INFORMATION OBTAINED FROM THE TRACKING DEVICE AND**  
18 **THE NUMBER GRANTED OR DENIED;**

19           **(VI) THE NUMBER OF CONVICTIONS RESULTING FROM THE**  
20 **INFORMATION OBTAINED FROM THE TRACKING DEVICE AND THE OFFENSES FOR**  
21 **WHICH THE CONVICTIONS WERE OBTAINED AND A GENERAL ASSESSMENT OF**  
22 **THE IMPORTANCE OF THE INFORMATION; AND**

23           **(VII) THE INFORMATION REQUIRED BY ITEMS (II) THROUGH**  
24 **(VI) OF THIS PARAGRAPH WITH RESPECT TO ORDERS OR EXTENSIONS OBTAINED**  
25 **IN A PRECEDING CALENDAR YEAR.**

26           **(3) (I) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT**  
27 **ARTICLE, IN FEBRUARY OF EACH YEAR, THE STATE COURT ADMINISTRATOR**  
28 **SHALL TRANSMIT TO THE GENERAL ASSEMBLY A FULL AND COMPLETE REPORT**  
29 **CONCERNING THE NUMBER OF APPLICATIONS FOR ORDERS AUTHORIZING OR**  
30 **APPROVING THE PLACEMENT OR INSTALLATION OF A TRACKING DEVICE ON A**  
31 **VESSEL AND THE NUMBER OF ORDERS AND EXTENSIONS GRANTED OR DENIED**  
32 **DURING THE PRECEDING CALENDAR YEAR.**

1                   **(II) THE REPORT SHALL INCLUDE A SUMMARY AND**  
2 **ANALYSIS OF THE DATA REQUIRED TO BE FILED WITH THE ADMINISTRATIVE**  
3 **OFFICE OF THE COURTS BY PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.**

4                   **(III) THE STATE COURT ADMINISTRATOR IS AUTHORIZED TO**  
5 **ISSUE BINDING REGULATIONS DEALING WITH THE CONTENT AND FORM OF THE**  
6 **REPORTS REQUIRED TO BE FILED BY PARAGRAPHS (1) AND (2) OF THIS**  
7 **SUBSECTION.**

8                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2012.